

Zoning Regulation Amendment – Open Space Development (Section 6.6.22)
Adopted by PZC June 16, 2009
Effective Date July 6, 2009

This is entirely new text, replacing all portions of existing language in Section 6.6.22 – Open Space Development.

5.1.2 Residential Zones: Permitted, Accessory & Special Uses. (Table)
[CREATED JULY 30, 1991]

USE	ZONE								
	GBR 130	RC 120	RR 80	RA 40	RM 20	RM 15	RH 10	RA 20	RA 15
Open Space Development ¹ [ZR 6.6.22]	P/S	P/S	P/S	P/S	P/S	P/S	P/S	N	N

NOTES FROM ABOVE:

1. Open Space Developments are a permitted use, subject to subdivision review if comprised of single-family dwellings located on individual building lots. A Special Use Permit shall be required only if the land remains under single common ownership (Section 6.6.22.2.2).

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6.6.22 Open Space Development (OSD).

- 6.6.22.1 Purpose. An Open Space Development (OSD) provides flexible location of single family residential units on portions of a property best suited for development while preserving the remaining land as open space. The creation of open space is accomplished by permitting a reduction of normally required lot size and setbacks. Open Space Development furthers goals of Stonington's Plan of Conservation and Development by (1) protecting natural streams, water supplies and watershed areas; (2) conserving wildlife, scenic views, prime agricultural soils, wetlands and other significant natural features; (3) enhancing the value of unfragmented forest habitat, wildlife preserves or adjoining open space; (4) enhancing public and private recreation opportunities; (5) preserving historic and archaeological sites; and (6) providing greater design flexibility and efficiency in the siting of infrastructure, including reduced length of streets and utilities, thus limiting the amount of impervious surfaces and stormwater runoff. The Planning and Zoning Commission may permit an OSD in all residential zoning districts where single family residences are a permitted use.

6.6.22.2 Alternative Open Space Development Concepts.

- .1 Subdivision of Land. The Commission may permit an Open Space Development comprised of housing units located on individual subdivided building lots. A minimum required yard (side, front and rear) of 15 feet shall be provided. There is no minimum lot size or frontage associated with an OSD subdivision.
- .2 Common Interest Community. The Commission may permit an Open Space Development wherein the land and common facilities shall be under single common ownership, in which case individual lots and yards shall not be required; however, no dwelling shall be within 30 feet of another dwelling. A Common Interest Community shall not constitute a subdivision under provisions of the General Statutes, if no new lots are created.

6.6.22.3 Dwelling Unit Calculation.

- .1 For comparative purposes, applicants must submit a conceptual Conventional Yield Plan that depicts the maximum number of building lots or dwelling units that could reasonably be developed on a parcel of land under standard bulk requirements for the zoning district in which the development is located (Section 5.1.1). A conventional plan using fee-in-lieu of open space shall not be substituted for this requirement. This conceptual plan shall have exterior property boundaries prepared to Class A-2 survey standards and interior lot lines prepared to Class D standards. The plan shall account for the presence of street rights-of-way, areas set aside for stormwater management, a minimum of 15 percent of the entire parcel set aside as open space as required by the Subdivision Regulations, the upland review area as measured 100 feet horizontally from any regulated wetland or watercourse, and wetlands proration per Section 7.5 of the Zoning Regulations. Detailed roadway construction designs and detailed utility layouts are not required for a conceptual Conventional Yield Plan.
- .2 The maximum number of dwelling units allowed on a property proposed for an OSD shall be the maximum number of single family building lots or dwelling units that can be developed under a Conventional Yield Plan. The applicant shall have the burden of proof with regard to the reasonableness and feasibility of this design.

6.6.22.4 Open Space Development – Design Standards.

- .1 Floor Area Ratios and Height. Each dwelling unit in an OSD, combined with any of its accessory structures, shall have a maximum gross floor area equal to the zoning district's minimum lot size multiplied by the floor area ratio for that district. Maximum height of dwelling units shall be the maximum allowed for the zoning district in which the OSD is located. Refer to Residential Bulk Requirements Table (Section 5.1.1).
- .2 The landscape shall be preserved in its natural state by minimizing tree and soil removal. Topography and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as elements that can be modified. Plans shall identify trees over twenty-four (24) inches in diameter, and efforts shall be made to preserve these trees as part of site design.
- .3 Buffer Areas shall be provided as follows:
 - .1 Perimeter of the property, forty (40) feet in width.
 - .2 The buffer area may be used to satisfy a portion of the open space set-aside provided it complies with ownership requirements of Section 6.6.22.6.
 - .3 No vegetation within the buffer area may be disturbed, destroyed or removed, except for driveways, walkways, and bicycle paths or for normal maintenance as described in the adopted management plan.
- .4 Drainage. Use of "soft" (non-structural) stormwater management techniques that reduce impervious surface and enable infiltration is encouraged, to reflect Best Management Practices (BMPs) contained in the 2004 Connecticut Stormwater Quality Manual. Stormwater detention ponds, although allowed within designated open space, shall not qualify towards the 50% minimum required open space. All stormwater detention structures shall be landscaped.
- .5 Common/Shared Driveways. Private common and shared drives may be utilized in lieu of public Town roads, provided they comply with the following standards.
 - .1 Driveways may cross buffer areas described above. However, they shall be designed and located in such a manner as to maintain and preserve natural topography, significant trees, and minimize cuts and fills.

- .2 Ownership and Maintenance. The deed for any lot which utilizes a shared driveway shall include appropriate easements to pass and repass, to install and maintain utilities, and contain the provision that such driveway shall not be used for access to any other property except those depicted on the development plan. The deed shall specify that the Town of Stonington shall not ever be required to plow, maintain or assume ownership of such driveway. Prior to sale of any housing units using a shared driveway, the applicant shall prepare an agreement for maintenance of the driveway by the owners of property served by said driveway. This agreement shall become part of the conditions of sale and shall be binding on all future owners.
- .6 On-site Pedestrian and Bicycle Circulation. Walkways and bicycle paths shall link residences, recreation facilities and adjacent land uses where appropriate.
- .7 Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Garage spaces and parking spaces in front of garages may count in this computation.
- .8 The removal of existing historic structures or alteration of historic architectural elements shall be minimized insofar as practicable.
- .9 Sidewalks and Streetlights. Portland-based concrete sidewalks and streetlights are not required unless the Commission finds that density and safety considerations warrant their installation.

6.6.22.5 Required Open Space. A minimum of fifty (50) percent of the total parcel subject to an OSD application shall be designated as open space, set aside for one or more goals contained in Section 6.6.22.1. The open space shall:

- .1 Contain a percentage of wetlands no greater than the percentage of wetlands found on the entire site under existing conditions.
- .2 Be contiguous. Contiguous shall be defined as being connected with a minimum width at any point of forty (40) feet. The Planning and Zoning Commission, upon recommendation of the Conservation Commission, may waive this requirement where it is determined that allowing non-contiguous open space will promote the goals of this regulation and/or protect identified primary and secondary conservation areas. Open Space will still be considered contiguous if it is separated by a roadway or driveway; in such instances a waiver is not necessary.

- .3 Wherever possible, consist of unfragmented tracts that abut areas of existing or planned protected open space on adjacent parcels, thus comprising part of a larger contiguous and integrated greenway system.
- .4 Not be used for any structures, including, but not limited to, active recreation facilities such as swimming pools, tennis courts or outfitted playgrounds.

6.6.22.6 Ownership of Open Space.

- .1 Open space to be conveyed to an entity other than the applicant or current property owner shall be conveyed in fee simple title to one of the entities listed below. Open space parcels shall be subject to a recorded enforceable restriction that states such land shall be perpetually kept in an open state, that it be preserved exclusively for the purposes set forth herein, and that it be maintained in a manner which will ensure its suitability for its intended purposes. The applicant shall present to the Commission a proposed quit claim deed for the transfer of open space, which must be executed and filed in the municipal land records before any zoning permits are issued.
 - .1 A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.
 - .2 A corporation or trust comprised of owners of lots within a subdivision or owners of shares within a Common Interest Community. When a corporation or trust is used, ownership shall pass with conveyances of the lots or units. Maintenance of open space shall be permanently guaranteed through mandatory assessments. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to preserve, maintain and manage the open space.
- .2 In cases where the applicant or property owner retains title to open space, this area shall be preserved via a conservation restriction in the form of a permanent easement and management plan recorded in the municipal land records, executed by or on behalf of the owner of the land. The purpose of this easement shall be to retain a property or portions thereof in its natural, scenic or open condition or in agricultural, farming, forest or open space use. Conservation restrictions are enforceable interests in land and must be granted to a nonprofit organization whose principal purpose is farmland

preservation or conservation of open space.

6.6.22.7 Review Process.

- .1 Pre-application review with Department of Planning staff. Pre-application meetings allow the applicant to seek advice as to required steps in the approval process and to discuss pertinent regulations, rules and procedures which may bear upon the proposed subdivision. The objective is to ensure that basic requirements can be met prior to incurring application, surveying, engineering and legal fees associated with preparing of a detailed application. Pre-application meetings are intended for the guidance of the applicant and shall not be considered approval of a project or any of its elements.
- .2 Pre-application review with Conservation Commission. Both a preliminary Conventional Yield Plan and preliminary OSD plan shall be presented in order to discuss alternative development options. After formal submission of a subdivision application, the Conservation Commission shall provide written recommendations to the Planning and Zoning Commission regarding disposition of proposed open space. If such comments are not submitted prior to close of a public hearing, it is presumed that the Conservation Commission has waived any input on the proposed OSD.
- .3 Subdivision Application if the proposal is for the division of a tract or parcel of land into three or more parts or lots for the purpose, whether immediate or future, for sale or building development. The application shall contain both an OSD layout and conceptual Conventional Yield Plan, the latter to determine the maximum number of building lots that could be developed on a parcel under standard zoning district bulk requirements and conventional open space set asides.
- .4 Site Plan and Special Use Permit application if the proposal is for a Common Interest Community, as defined in Section 6.6.22.2.2. The application shall include a conceptual Conventional Yield Plan and an OSD layout, the latter providing all information contained in a Type 2 site plan as defined in Section 8.4.2.

6.6.22.8 Findings. The Planning and Zoning Commission shall, in its approval of an OSD, make the following findings:

- .1 That the OSD promotes a less sprawling and more efficient form of development, consuming less open land and conforming to existing

topography and natural features better than a conventional subdivision.

- .2 That the internal arrangement of streets, driveways and access to public roads will not adversely affect traffic patterns of the area or emergency vehicle access.
- .3 That the site design, including the number, type and density of dwelling units, conforms to the Land Use Regulations of the Town of Stonington.
- .4 That ownership provisions for proposed open space will not result in an undue maintenance burden on the Town.
- .5 That site layout promotes permanent preservation of open space, prime agricultural land, forestry land, other natural resources and/or historical and archeological resources.
- .6 That proposed water and sewer provisions have received written approvals from appropriate local and/or state agencies.
- .7 That the OSD conforms to Stonington's Plan of Conservation and Development.